

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Terrence Dimingo Terry, #307935, )  
Petitioner, ) Civil Action No. 6:10-2006-JFA-KFM  
vs. ) ) **REPORT OF MAGISTRATE JUDGE**  
Mr. Leroy Cartledge, Warden of )  
McCormick Correctional Institution, )  
Respondent. )  
\_\_\_\_\_  
)

The petitioner, a state prisoner proceeding *pro se*, seeks habeas corpus relief pursuant to Title 28, United States Code, Section 2254.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(c), D.S.C., this magistrate judge is authorized to review posttrial petitions for relief and submit findings and recommendations to the District Court.

This matter is before the court on the petitioner's motion for default (doc. 21). Entry of default is appropriate when a party fails to timely plead. Fed.R.Civ.P. 55. The respondent has not failed to timely respond to the petitioner's petition for federal habeas relief. The respondent was served with the petitioner's habeas petition on August 13, 2010. The return was due on October 7, 2010. However, the respondent timely filed a motion for extension of time to file the return on October 7, 2010. This court granted the respondent's motion on October 12, 2010. The due date for the respondent to file the return is November 8, 2010. Based upon the foregoing, the petitioner's motion for default (doc. 21) should be denied.

November 3, 2010  
Greenville, South Carolina

s/Kevin F. McDonald  
United States Magistrate Judge